

## HOUSE SUMMARY OF SENATE AMENDMENTS

HB 357

2020 Regular Session

Magee

GAMING: Provides relative to fantasy sports contests

## Synopsis of Senate Amendments

1. Relative to sports wagering, removes proposed law which would have provided for the following:
  - (a) A proposition election for sports wagering to determine whether sports wagering activities and operations will be permitted in a parish.
  - (b) The regulation of sports wagering by the La. Gaming Control Board (board).
  - (c) Exceptions to the present law crimes of gambling and gambling by computer.
2. Incorporates provisions regarding fantasy sports contests which do all of the following:
  - (a) Provides for certain definitions relative to fantasy sports contests.
  - (b) Mandates that certain requirements be included in the rules adopted by the board, including but not limited to methods, forms, and procedures for making an application for a license, contract, or permit to be considered by the board.
  - (c) Authorizes the board to assess and provide for the imposition and collection of fees necessary to defray certain administrative costs, and further requires any fine or monetary penalty collected by the board or its staff to be remitted to the state treasury for deposit into the state general fund.
  - (d) Relative to the licensing of fantasy sports contest operators (operator), requires an operator to be licensed by the board before offering any fantasy sports contest and prohibits the transfer of a license.
  - (e) Requires an operator to be a person domiciled in the state or a domestic business entity with a certificate of existence from the secretary of state and in good standing or a foreign corporation with a certificate of authority to transact business in the state, further requires demonstration to the board that the operator is suitable for licensing and financial statements indicating any gross fantasy sports contest revenue for the previous three years.
  - (f) Provides that the fee for the initial application shall be \$1,000 and nonrefundable and provides for fees after a term of three years.
  - (g) Requires all fees, fines, and other monies collected by the division to be forwarded upon receipt to the state treasurer for immediate deposit into the state treasury and requires an amount to be allocated to the Dept. of Public Safety and Corrections and the Dept. of Justice, pursuant to legislative appropriation.
  - (h) Requires the board to issue a valid license to an applicant that meets certain criteria set forth in proposed law and to deny a license to any applicant who does not meet certain criteria.

- (i) Requires an operator to submit evidence to the board that the operator has established and will implement certain commercially reasonable procedures for fantasy sports contests with an entry fee.
  - (j) Prohibits an operator from offering fantasy sports contests based on the performances of participants in high school or youth athletic events and from offering fantasy sports contests to the general public that do not establish and make known all prizes and awards offered to winning participants in advance of the game or contest.
  - (k) Requires a fantasy sports contest operator to annually contract with a certified public accountant to conduct an independent audit consistent with the standards accepted by the American Institute of Certified Public Accountants and submit to the board a copy of the audit report.
  - (l) Prohibits any person licensed pursuant to proposed law, or any agent or employee thereof, from allowing a person under the age of 21 to be a fantasy sports contest player and from allowing a person to participate in a fantasy sports contest in a parish in which a majority of the qualified electors in the parish voting on the proposition to authorize fantasy sports in the parish voted against the proposition.
  - (m) Requires the withholding of all winnings from fantasy sports contests players who are under the age of 21 and from fantasy sports contests players participating in a fantasy sports contest while located in a parish in which a majority of the qualified electors voted against the proposition.
  - (n) Provides for penalties for operators who violate proposed law.
  - (o) Requires operators to report certain financial information periodically to the division, which is not confidential and shall be available for public inspection.
  - (p) Requires an operator to pay any civil penalties in order to retain any permit or license and provides that the failure to pay such penalties results in the shutdown of the platform of the operator.
  - (q) Adds general authority for the board to revoke or suspend a license.
  - (r) Requires the division to conduct investigations, hearings, and inquiries as it deems necessary to fulfill its responsibilities.
  - (s) Prohibits a fantasy sports contest operator from charging players on inactive accounts.
3. Makes proposed law effective upon signature of the governor or lapse of time for gubernatorial action.

### **Digest of Bill as Finally Passed by Senate**

Present law provides for the "Louisiana Fantasy Sports Contests Act", which called for a proposition election held on Nov. 6, 2018, to determine whether fantasy sports contests were to be permitted in a particular parish.

Present law provides for a definition of "fantasy sports contests", which means any fantasy or simulation sports game or contest played through the internet or mobile device with all of the following elements:

- (1) Participants create a simulation sports team based on the current membership of

actual amateur or professional sports organizations.

- (2) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest, and the value of the prizes or awards is not determined by the number of participants or the amount of any fees paid by those participants.
- (3) All winning outcomes reflect the relative knowledge and skill of the participant and are predominantly determined by accumulated statistical results of the performance of the individuals, including athletes in the case of sporting events.
- (4) No winning outcome is based on either of the following:
  - (a) On the score, point-spread, or any performance or performances of any single real-world team or any combination of such teams.
  - (b) Solely on any single performance of an individual athlete in any single real-world sporting or other event.

Proposed law retains present law and adds definitions for the terms "confidential information", "entry fee", "fantasy sports contest operator", "fantasy sports contest player", "gross fantasy sports contest revenues", "location percentage", and "net revenue".

Present law authorizes the La. Gaming Control Board to adopt rules in accordance with the Administrative Procedure Act to implement, administer, and regulate fantasy sports contests.

Proposed law provides that the rules shall include but not be limited to:

- (1) The issuance of any license, contract, or permit, subject to regulation of the board.
- (2) The methods of and forms and procedures for making an application for a license, contract, or permit to be considered by the board.
- (3) The methods of and forms for providing to the board information concerning a person's family, habits, character, associates, criminal record, business activities, and financial affairs.

Proposed law requires a fantasy sports contest operator to be licensed by the La. Gaming Control Board. Provides that a fantasy sports contest operator shall:

- (1) Be a person domiciled in La. or a domestic business entity with a certificate of existence from the secretary of state and in good standing or a foreign corporation with a certificate of authority to transact business in the state from the secretary of state and in good standing.
- (2) Demonstrate to the La. Gaming Control Board that the operator is suitable for licensing pursuant to present law (R.S. 27:28).
- (3) Provide the La. Gaming Board with financial statements indicating any gross fantasy sports contest revenue for the previous three years.

Proposed law provides that the initial application fee shall be \$1,000 and shall be nonrefundable. Further provides for fees after a term of three years.

Proposed law provides that all fees, fines, and other monies collected by the division, pursuant to proposed law, shall be forwarded upon receipt to the state treasurer for immediate deposit into the state treasury. An amount shall be allocated to the Dept. of Public Safety and Corrections and to the Dept. of Justice, pursuant to legislative appropriation, for regulatory, administrative, investigative, enforcement, legal, and other such expenses as may be necessary and for activities associated with the enforcement of laws and regulations governing fantasy sports contests.

Proposed law provides that any fantasy sports contest operator that allows its license to lapse, without requesting an extension of time to file for a renewal, is required to resubmit an initial application for licensure. Further prohibits the transfer of a fantasy sports contest operator's license.

Proposed law requires the board to issue or deny a fantasy sports contest operator's license within 60 days of receipt of application for licensure. Requires the board to provide an operator with specific reasons if a license is not issued. Prohibits the transfer of a fantasy sports contest operator's license.

Proposed law provides that as a condition of licensure, a fantasy sports contest operator is required to submit evidence to the board that the operator has established and will implement certain commercially reasonable procedures for fantasy sports contests that:

- (1) Prevent employees of the fantasy sports contest operator, and relatives of an employee living in the same household as an employee of an operator, from competing in fantasy sports contests offered by an operator in which the operator offers a cash prize to the general public.
- (2) Prevent sharing of confidential information that could affect fantasy sports contests with third parties until the information is made publicly available.
- (3) Provide that no winning outcome is based on the score, point spread, or any performance of any single actual sports team or combination of such teams or solely on any single performance of an individual athlete or participant in any single real-world sporting event.
- (4) Ensure that any athletes and individuals who participate in or officiate a game or competition that is the subject of a fantasy sports contest or any sports agent, team employee, referee, or league official associated with a sport or athletic event do not participate in fantasy sports contests.
- (5) Verify that a fantasy sports contest player is 21 years of age or older.
- (6) Provide fantasy sports contest players with access to information on responsible play.
- (7) Provide fantasy sports contest players with access to the fantasy sports contest player's play history and account details.
- (8) Allow individuals to restrict themselves from entering a fantasy sports contest upon request and provide reasonable steps to prevent the person entering fantasy sports contests offered by an operator.
- (9) Segregate fantasy sports contest player funds from operational funds or maintain a reserve that exceeds the amount of player funds on deposit, which may not be used for operational activities. Provides that reserve funds may take the form of cash, cash equivalents, payment process reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof, in the amount that must exceed the total balances of the fantasy sports contest players' accounts.

Proposed law prohibits fantasy sports contests operators from offering fantasy sports contests based on the performances of participants in high school or youth athletic events.

Proposed law requires a licensed fantasy sports contest operator to:

- (1) Annually contract with a certified public accountant to conduct an audit that is consistent with the standards accepted by the American Institute of Certified Public Accountants.
- (2) Submit to the board a copy of the audit report.

- (3) Submit financial reports as required by proposed law (R.S. 27:310).

Proposed law prohibits any person licensed pursuant to proposed law, or any agent or employee thereof, from allowing a person under the age of 21 to be a fantasy sports contest player and from allowing a person to participate in a fantasy sports contest in a parish in which a majority of the qualified electors in the parish voting on the proposition to authorize fantasy sports in the parish voted against the proposition. Proposed law requires the licensee to withhold the winnings of such persons.

Proposed law provides for fines for certain violations of proposed law.

Proposed law requires periodic reporting of gross fantasy sports contests, revenues, net revenue, and financial statements regarding a fantasy sports contest operator's operations in La.

Proposed law requires the La. Gaming Control Board to adopt as a rule a schedule of penalties provided for by proposed law.

Proposed law requires the gaming division of state police to conduct investigations, hearings, and inquiries as it deems necessary to fulfill its responsibilities. Authorizes the suspension of a license prior to a hearing if there is a written finding of danger to public health and welfare.

Proposed law provides that as a condition of receiving a license, an operator shall agree that the division and its agents and employees shall have unrestricted access and the right to inspect any premises or electronic platform under the control of the operator in which any activity relating to the provisions of proposed law is conducted.

Proposed law, regarding active accounts, requires an operator to:

- (1) Limit each authorized player to one active and continuously used account.
- (2) Publish and facilitate parental control procedures to allow parents or guardians to exclude minors from access to any contest or platform. Requires procedures to include a toll-free number to call for help in establishing such parental controls.
- (3) Make clear conspicuous statements that are not inaccurate or misleading concerning the chances of winning and the number of winners when referencing the chances or likelihood of winning.
- (4) Permit any authorized player to permanently close an account registered to the player, on any and all platforms supported by the operator or registrant, at any time and for any reason.
- (5) Identify all highly experienced players in any contest by a symbol attached to the players' username, or by other visible means, on all platforms supported by the operator or registrant.
- (6) Implement measures to protect the privacy and online security of authorized players, their accounts, and their personal financial information.

Proposed law prohibits an operator from charging players for inactive accounts. Provides that an operator shall only charge players for entry fees placed or contests entered.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 27:302 and 304; Adds R.S. 27:306 through 315)